

Minnesota Attorney General: Administrative Rules Proceedings

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INS 180 AUTHORITY

The rules and regulations hereinafter set forth are promulgated under the authority of Minn. Stat. § 65B.53, subd. 4.

INS 181 PURPOSE AND SCOPE

These rules are designed to promote efficient settlement of claims involving economic loss between reparation obligors. As a condition precedent to arbitration, however, local representatives of the involved reparation obligors must make a sincere effort to settle controversies by direct negotiation.

INS 182 GENERAL

(a) These rules shall be considered applicable to controversies arising out of accidents, insured events, or losses involving a commercial vehicle under the jurisdiction of the MNFAIA, § 65B.53 giving subrogation or direct action recovery rights to reparation obligors for payments or benefits paid to insureds or third parties under such statute.

(b) These rules shall not be construed to create any causes of action or liabilities not existing in law or equity.

(c) These rules are applicable to controversies involving reparation obligors as that term is defined in Minn. Stat. § 65B.43, subd. 9. The interest of other parties may not be arbitrated under these Rules. The fact that such parties may be insureds of reparation obligors does not alter this prohibition.

(d) The monetary limits and extent of a reparation obligor's claim shall be governed by Minn. Stat. § 65B.53, subd. 1.

(e) Where a claim under these rules is also under the compulsory jurisdiction of other industry agreements sponsored by the Committee on Insurance Arbitration, the jurisdiction of these rules is primary.

(f) Any determination as to whether a reparation obligor is legally entitled to recovery from another reparation obligor shall be made by an arbitration panel appointed under the authority of these rules.

(g) Compulsory arbitration under these rules does not apply to a controversy arising from an out-of-state accident where the party receiving benefits has a right to proceed at law for full recovery of his tort loss.

(h) Under these rules the Committee on Insurance Arbitration is authorized

(1) To select places where arbitration facilities are to be available.

(2) To make appropriate rules and regulations to apportion equitably among reparation obligors the operating expenses of the arbitration program set out under these rules.

(i) Arbitration committees shall be appointed by the Committee on Insurance Arbitration from full-time salaried representatives of reparation obligors and shall function in the following manner:

(1) Members of Arbitration committees shall be selected on the basis of their experience and qualifications and they shall serve without compensation.

(2) No arbitrator shall serve on a panel hearing a case in which his company is directly or indirectly interested.

(3) The decision of the majority or an arbitration panel is final and binding upon the parties to the controversy without the right of rehearing.

(j) In arbitration proceedings and practice, the reparation obligor which initiates the proceeding by filing a request for arbitration shall be known as the "applicant"; and the reparation obligor or reparation obligors against which such controverted claim or issue was asserted shall be known as "respondent(s)".

(k) Submission of a case to arbitration under these rules shall have the same force and effect as to reparation obligors with regards to the applicable Statute of Limitations as if litigation has been instituted; further, if a matter within the compulsory provisions of these rules is inadvertently placed in litigation, the discontinuance of such litigation for the purpose of arbitration will be considered as a submission to arbitration with regards to the applicable Statute of Limitations as of the date such litigation was instituted.

(l) Where reparation obligors are also signatory to other industry arbitration programs sponsored by the Committee on Insurance Arbitration and the claim is within the compulsory jurisdiction of these other agreements, the signatory companies waive their rights to proceed separately under the

other programs. Reparation obligors may, by mutual agreement, include all claims arising out of the same accident or insured event for disposition by an arbitration panel under these Rules, provided, however, that hearing of a matter pending before an arbitration panel under these Rules will be deferred because of pending claims or suits arising out of the same accident, occurrence or insured event, unless the involved companies waive such deferment in writing.

(m) Deferment of a hearing under Ins. Div. 182 (1) does not relieve a respondent reparation obligor from the obligation to file its written answer asserting therein any affirmative defense to the jurisdiction of the panel to proceed with a hearing once the subject case has been removed from a deferred status. If the jurisdiction issue is raised by the written answer, the committee will forthwith pass upon the merits of the jurisdictional question even though the hearing on the issues of liability and damages will be deferred because of pending companion claims or suits not subject to arbitration. However, for the Rule to apply, an arbitration committee must receive the applicant's filing 120 days prior to the running of the Statute of Limitations and receive the respondent's answer within 60 days thereof. If the respondent's answer is not received within the stated period, any affirmative defense running to the jurisdiction of the Committee to proceed with a hearing is waived.

(n) Where there are companion claims arising out of the same accident arbitrated together pursuant to Rule 182 (1), only one

filing is necessary to determine the issue of liability as to the drivers of the respective vehicles. A panel's decision on this issue is res judicata on the liability issue in all companion matters involving the same companies within the jurisdiction of these Rules, except as to special defenses arising in the companion claim or suit.

INS 183 ORGANIZATION

(a) Reparation obligors shall furnish the Committee on Insurance Arbitration on request, a list of names, titles and local addresses of all employees who are qualified to act as arbitrators.

(b) The Chairman of the Arbitration Committee shall designate one disinterested member of said Committee to serve as a panel of arbitration in each case. However, three members will constitute a panel if requested by a controverting party in a specific case.

INS 184 JURISDICTION

Compulsory arbitration under these Rules applies to controversies arising out of accidents, insured events or occurrences within this state involving commercial vehicles. Controversies arising from accidents, insured events or occurrences involving commercial vehicles outside this state can be submitted with the consent of the controverting reparation obligors.

INS 185 FILING ASSESSMENTS

(a) The Committee on Insurance Arbitration by resolution will prescribe the filing assessment for the use of local arbitration facilities.

(b) The obligation for the prescribed filing assessment is incurred upon filing but payment by the applicant reparation obligor to the Committee on Insurance Arbitration is deferred until the case is closed, either through hearing, settlement, or withdrawal prior to hearing. The prescribed filing assessment shall also be paid in the same manner by a respondent reparation obligor that files a counterclaim. There is no exception to a reparation obligor's obligation to pay the filing assessment.

(c) The Secretary of the Committee on Insurance Arbitration is the custodian of the assessment charges collected by him and shall make expenditures therefrom to defray such arbitration expenses as may be authorized by the Committee on Insurance Arbitration.

(d) The Secretary of the Committee on Insurance Arbitration will submit reports on assessments collected and disbursed during such period as may be considered desirable by the Committee on Insurance Arbitration.

INS 186 PROCEDURE

(a) An arbitration proceeding is commenced by the local representative of a reparation obligor filing an "Arbitration Notice" (three copies) with the Secretary of the local arbitration committee. At the same time three copies of the "Arbitration Notice" are to be submitted by the applicant directly to the local representative of the other involved reparation obligor. If there is more than one respondent

reparation obligor in a case, the applicant shall so indicate on the original and all copies of the "Arbitration Notice" and send three copies thereof to each respondent reparation obligor.

(b) Notice by applicants shall set forth the following information:

(1) Names of applicant and respondent reparation obligor together with names and addresses of local representatives having supervision over the case in controversy;

(2) Name and address of respondent reparation obligor's insured;

(3) Claim file numbers of applicant and respondent, if known;

(4) Date and place of alleged accident, loss or other insured event;

(5) Amount of reparation obligor's claim payment and amount of any other expenses for which indemnity is requested;

(6) Certification that settlement efforts have been unsuccessful;

(7) Brief statement of allegation solely as to the issue in controversy;

(8) Signature of applicant's representative and date signed.

(c) Answers filed by respondent shall set forth the following information:

(1) Supplement, if and as necessary, the information furnished by applicant as to respondent reparation obligor's name, local representative, address, name of insured, file number of kind of policy coverage;

(2) Whether there is an objection to arbitration, and, if so, the grounds on which the objection is based should be fully state;

(3) Brief statement of allegation as to the issue in controversy;

(4) Signature of respondent's representative and date signed.

(d) The respondent has thirty days after the applicant's filing in which to file a written answer. If a respondent fails to submit its answer within thirty days after an applicant reparation obligor files with a committee, it is presumed that the applicant's claim has been denied and the case is ready for hearing on the issues. Failure to file an answer will not operate to delay the arbitration hearing. However, if affirmative defenses are available to the respondent, and are not asserted by answer prior to notice of hearing, the applicant, on request, will be entitled to an adjournment to investigate such affirmative defenses.

(e) The procedure set out in the preceding paragraphs of this section is also applicable to counterclaims for damages which may be submitted for arbitration pursuant to Rule

182 (1). The "Arbitration Notice" should clearly indicate that it is submitted as a counterclaim and the original arbitration case to which it pertains shall be plainly identified.

INS 187 HEARINGS

(a) When the Secretary has received the essential facts and contentions from the controverting reparation obligors, the issue in the case shall be scheduled for a hearing by the Arbitration Panel at the earliest practicable date.

(b) Hearing date shall be determined by the Chairman of the Arbitration Panel, and one or more cases may be considered at any scheduled hearing.

(c) Representatives of controverting parties shall be notified by the Secretary of the time and place of a scheduled hearing at least two weeks in advance of the hearing date. Notice of hearing shall be sent by certified mail, return receipt requested, to any respondent which has not filed a written answer.

(d) Adjournments may be granted for cause by the Chairman of the Arbitration Committee or his designee.

(e) Evidence which controverting parties desire to submit in support of their allegations shall be made available for examination by the arbitrators at the hearing. Such evidence may also be examined by the opposing parties at the hearing. If one of the controverting parties fails to produce evidence at a scheduled arbitration hearing, after due notice thereof, the arbitrators may at their discretion consider the information in the "Arbitration Notice" of such party and render a decision accordingly.

(f) Procedure at Arbitration Panel Hearings shall be informal. Controverting parties are expected to present the facts of their respective cases in a brief, frank and direct manner.

(g) The controverting parties shall submit for consideration to the arbitrators, briefs of the law involved when requested by the arbitration panel hearing the case.

(h) Controverting parties may present witnesses at an arbitration hearing, if considered necessary, after notice to the other interested party or parties sufficiently in advance of the hearing date to permit such other party or parties also to present witnesses if desired.

(i) Controverting parties may, if they so desire, be represented at arbitration hearings by members of their staff or by anyone employed or retained by them.

(j) Documentary evidence submitted by controverting parties shall be left with the arbitrators for their scrutiny and consideration while reaching a decision.

(k) If representatives of controverting parties attend an arbitration hearing, they must withdraw after presentation of their cases any may not be present while the arbitrators are considering their decision.

INS 188 DECISIONS

(a) Arbitration panels may, upon their own initiative, render a decision in favor of a respondent company without production of evidence by such respondent, if the panel unanimously agrees following presentation of the applicant's evidence that such

applicant has not made out a prima face case.

(b) A decision of an arbitration panel on issues of fact or law is final and binding. However, the provisions of Rule 182 (i)(3) do not preclude a local committee's Chairman correcting a clerical, typographical or jurisdictional error on the part of a local committee's staff, provided it is called to the local committee's attention in writing by one of the arbitrating reparation obligors within 30 days after publication of the decision; or if recognized by the local committee without notice from the arbitrating reparation obligors within 30 days after publication of the decision; provided further, that the correction be made in either event within 60 days after publication of the decision.

(c) The law of the locality in which the accident, insured event, or loss occurred will control the decision on questions of liability. A finding as to the amount of damages in issue shall be based upon the facts presented to the arbitrators.

(d) The amount paid shall not be at issue unless pleaded specifically.

(e) Decisions of the arbitrators shall be promptly rendered after consideration of the case, and the evidence submitted by the controverting parties shall be returned promptly.

(f) The arbitrators shall prepare a written decision in each case, copies of which shall be distributed by the Secretary as follows: One copy will be retained by the arbitration panel secretary; one copy shall be furnished to each party involved in the

arbitration, and the original shall be furnished to the Committee on Insurance Arbitration.

(g) The decisions of the arbitration panel shall include the following minimum information:

(1) Date and place of hearing.

(2) Names of panel members.

(3) Names of applicant and respondent carriers and names of their respective insureds.

(4) Names of respective controverting party representatives, if any, attending the hearing.

(5) Brief description of the claim or controversy and amount involved therein.

(6) Names of controverting insurance carrier in whose favor an award is rendered and the amount thereof.

(7) Brief statement of the basis for the finding, such as lack of proof, contributory negligence, or other controlling principles of law.

(8) Signature of the arbitrator who prepared the decision.

(h) Decisions of an arbitration panel shall be complied with as soon as practicable. Any unwarranted delay on the part of the parties concerned should be reported to the Committee on Insurance Arbitration by the prevailing party.

STATE OF MINNESOTA
DEPARTMENT OF STATE
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Joan Anderson Growe
Secretary of State
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APPROVED AS TO FORM AND LEGALITY

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